IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO. 531 OF 2006

Kishore Tarachand Doshi.... Petitioner.

Versus

M/s.Star Construction Corporation and others. ... ... Respondents.

Mr. S. Shamim i/by M/s. Shamim & Co., for the Petitioner.
None for the Respondents.

CORAM : B.H.MARLAPALLE, J.

DATED : 20TH APRIL, 2007.

P.C.:

Heard learned Counsel appearing for the petitioner.

2. R. A. E. & R. Suit No. 79/143 of 1999 which was filed for seeking decree of eviction on the ground of arrears of rent came to be allowed by the learned Judge, Small Causes Court at Mumbai. By the judgment and order passed by the learned trial Judge on 24th February, 2004 the suit was decreed and the defendant was directed to handover vacant and peaceful possession of the suit premises to the plaintiff

within a period of four weeks from the date of the said order. Aggrieved by the said judgment and order, the defendant filed Appeal No. 278 of 2004 which came to be dismissed by the learned Division Bench of the Small Causes Court at Mumbai vide its judgment and order dated 10th October, 2005.

3. In this writ petition the judgment and order passed by the lower appellate court confirming the judgment and order passed by the learned Judge, Small Causes Court at Mumbai, under the Bombay Rents Hotels & Lodging House Rates (Control) Act is challenged. In Writ Petition No. 4138 of 2006, I have already taken a view vide order dated 24th August, 2006 that such decree can be challenged by filing a civil revision application under Section 115 of the Code of Civil Procedure. I have further observed that when such a statutory remedy is available, a writ petition under Article 227 of the Constitution of India need not be entertained.

4. Hence, the writ petition is disposed of as such with liberty to the petitioner to file a civil revision application and if such a civil revision application is filed within a period of four weeks from today, the period of pendency of this writ

petition be taken into consideration for condonation of delay, if any.

5. The status quo order granted earlier will continue to operate for a period of two weeks more from today.

6. Annexures to the petition memo be returned, if applied for.

7. Writ petition is disposed of, accordingly.

Sd/-

(B. H. MARLAPALLE, J.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

CIVIL APPLICATION NO. 405 OF 2006

IN

WRIT PETITION NO. 531 OF 2006

Kishore Tarachand Doshi.... Petitioner.

Versus

M/s.Star Construction Corporation
and others. ... ... Respondents.

Mr. S. Shamim i/by M/s. Shamim & Co.,
for the Petitioner.
None for the Respondents.

CORAM : B.H.MARLAPALLE, J.

DATED : 20TH APRIL, 2007.

P.C.:

In view of the disposal of the writ petition itself, the civil application does not survive and the same is disposed of as such.

Sd/-

(B. H. MARLAPALLE, J.)